



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 22, 1996

Mr. Charles E. Griffith, III
Deputy City Attorney
City of Austin
Department of Law
P.O. Box 1088
Austin, Texas 78767-8828

OR96-1523

Dear Mr. Griffith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27695.

The Austin Police Department (the "department") received an open records request for its records concerning a kidnapping and sexual assault investigation from 1974. You state that you have released to the requestor the "public copies" of the requested police reports, which contain the "front page offense report information" deemed to be public under *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

You state that the records pertain to a closed criminal investigation. However, the Texas Supreme Court has recently held that section 552.108 of the Government Code, the "law-enforcement exception," excepts from public disclosure all information held by law enforcement agencies or prosecutors that deals with the detection, investigation, or prosecution of crime, regardless of the status of the criminal investigation. *See Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). Because the records at issue come within the purview of section 552.108, we conclude that the department may withhold the requested information not previously released. Although section 552.108 authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See Gov't Code* § 552.007; *Gov't Code* § 552.362 (distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

Open Records Division

Ref.: ID# 37695

Enclosures: Submitted documents

cc: Mr. John Edens Carter
1410 Hyde Park Blvd., #21
Houston, Texas 77006-2558
(w/o enclosures)